

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

|                         |   |                          |
|-------------------------|---|--------------------------|
| JASON RATCLIFF, et al., | : |                          |
|                         | : | NO. 1:05-CV-00582        |
| Plaintiffs,             | : |                          |
|                         | : |                          |
| v.                      | : |                          |
|                         | : | <b>OPINION AND ORDER</b> |
|                         | : |                          |
| ERNIE MOORE, et al.,    | : |                          |
|                         | : |                          |
| Defendants.             | : |                          |

This matter is before the Court on the Report and Recommendation in which the assigned Magistrate Judge recommended that Plaintiff Jason Ratcliff's motion for mandatory injunction be denied (doc. 13). For the reasons indicated herein, the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety.

On September 6, 2005, Plaintiff Ratcliff, an inmate at Lebanon Correctional Institution, and several others, filed this action claiming Defendants violated their rights under the First and Fourteenth Amendments (doc. 1). On October 3, 2006, Plaintiff Ratcliff filed a motion for injunction against Defendants due to their alleged "failure to respond to plaintiff's notice of lawsuit and request for waiver of services of summons, and return the signed waiver of service of summons within thirty days after the date designated on the Notice and Request was sent" (doc. 42).

The Magistrate Judge reviewed the factors used to determine whether a preliminary injunction is proper, and found Plaintiff Ratcliff failed to allege facts sufficient to warrant such an

injunction (doc. 67). Further, the Magistrate Judge found there is no evidence of record that Plaintiffs properly served Defendants with the summons and complaint (Id.). Finally, the Magistrate Judge found that because a summons was reissued on December 8, 2006, and returned executed on May 15, 2007, Plaintiff's motion was premature (Id.). The Court, having fully considered this matter, finds the Magistrate Judge's Report and Recommendation well-reasoned, thorough, and correct.

The Parties were served with the Report and Recommendation and were therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Neither Party filed any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C).

Having reviewed this matter de novo pursuant to 28 U.S.C. §636(b), the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety (doc. 67), and thereby DENIES Plaintiff's Motion for Injunction (doc. 42).

SO ORDERED.

Dated: September 19, 2007

/s/ S. Arthur Spiegel  
S. Arthur Spiegel  
United States Senior District Judge